

<b>SOLICITATION, OFFER AND AWARD</b>		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CRF 700)		RATING		PAGE OF PAGES 1 84			
2. CONTRACT NO.		3. SOLICITATION NUMBER RFP-CMS-2006-8A-0003		4. SOLICITATION TYPE <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED BID (RFP)		5. DATE ISSUED 11/21/2005		6. REQUISITION/PURCHASE NUMBER	
7. ISSUED BY CMS, OAGM, MCG, DMSC 7500 SECURITY BLVD., MS: C2-21-15 BALTIMORE MD 21244-1850		CODE DMSC		8. ADDRESS OFFER TO (If other than Item 7)					

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder"

SOLICITATION

9. Sealed offers in original and 5 copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8, or if hand carried, in the depository located in \_\_\_\_\_ until 1400 ES local time 12/21/2005 (Hour) (Date)

CAUTION: LATE Submissions, Modifications and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL	A. NAME EDWARD M. RUTHERFORD	B. TELEPHONE (NO COLLECT CALLS)		C. E-MAIL ADDRESS ERutherford@cms.hhs.gov
	AREA CODE 410	NUMBER 786-6648	EXT.	

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OFFER (Must be fully completed by offeror)

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within \_\_\_\_\_ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52-232-8)	10 CALENDAR DAYS (%)	20 CALENDAR DAYS (%)	30 CALENDAR DAYS (%)	CALENDAR DAYS (%)
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14. ACKNOWLEDGEMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated):	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFEROR	CODE	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)
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15B. TELEPHONE NUMBER	15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER SUCH ADDRESS IN SCHEDULE.	17. SIGNATURE	18. OFFER DATE
AREA CODE NUMBER EXT.			

AWARD (To be completed by government)

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	21. ACCOUNTING AND APPROPRIATION	
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: <input type="checkbox"/> 10 U.S.C. 2304 (c) ( ) <input type="checkbox"/> 41 U.S.C. 253 (c) ( )		23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	ITEM
24. ADMINISTERED BY (If other than Item 7)	CODE	25. PAYMENT WILL BE MADE BY	CODE
26. NAME OF CONTRACTING OFFICER (Type or print)		27. UNITED STATES OF AMERICA (Signature of Contracting Officer)	28. AWARD DATE

IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.

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STANDARD FORM 33 (Rev. 9-97)  
Prescribed by GSA - FAR (48 CFR) 53.214(c)

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## SECTION B – SUPPLIES OR SERVICES AND PRICES/COSTS

### B.1 DESCRIPTION OF SERVICES

To obtain product fulfillment services and hosting and technical support services for the Medicare Learning Network's web-based training courses, registration system and product ordering system

### B.2 TYPE OF CONTRACT/PRICE/PAYMENT

This is a Firm Fixed Price contract in the amount of \$\_\_\_\_\_.

The contractor shall be paid upon receipt of a properly certified voucher. The contractor shall be paid as follows:

Upon submission and Government Acceptance of Monthly Status reports as follows:

CLIN	Year	Monthly Firm-Fixed Price	Total Firm-Fixed Price	Period of Performance
0001	Base Year	\$	\$	March 31, 2006 - March 30, 2007
0002	Option Year 1	\$	\$	March 31, 2007 – March 30, 2008
0003	Option Year 2	\$	\$	March 31, 2008 – March 30, 2009
0004	Option Year 3	\$	\$	March 31, 2009 – March 30, 2010
0005	Option Year 4	\$	\$	March 31, 2010 – March 30, 2011

### B.3 WITHHOLDING OF CONTRACT PAYMENTS

Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the Contractor as defined by the clause entitled "Excusable Delays" or "Default", as applicable. The Government shall promptly notify the Contractor of its intention to withhold payment of any invoice or voucher submitted.

### B.4 OPTION TO EXTEND THE TERMS OF THE CONTRACT

a. At the option of the Government, this contract may be extended by the Contracting Officer giving written notice of extension to the contractor prior to the expiration date of this contract; provided, that the Contracting Officer shall have given preliminary notice of the Government's intent to extend not later than sixty (60) days prior to the last day of the term of this contract (such preliminary notice shall not be construed as an exercise of

the option, and will not bind the Government to exercise the option.) If the Government exercises this option, the contract, as extended, shall be deemed to include this option provision; provided, however, that the total duration of this contract, including the exercise of any options under this clause, shall not exceed 120 months or the period of performance of the contract, whichever comes first.

**b.** In the event that the contract is extended, the contractor shall continue the effort described in Section B.2 of this document, the Contractor shall continue the effort described in the Attached J.1 - Statement of Work during the 12 month period immediately following that set forth in Section F entitled "Period of Performance." The parties hereto agree that upon issuance of the order exercising this option, the estimated no-to-exceed amount in be incorporated herein.

## **SECTION C – DESCRIPTION/SPECIFICATIONS/WORK STATEMENT**

### **C.1 STATEMENT OF WORK**

Independently and not as an agent of the Government, the Contractor shall furnish all the necessary services, qualified personnel, material, equipment, and facilities, not otherwise provided by the Government, as needed to perform the Statement of Work, SECTION J, ATTACHMENT J.1, attached hereto and made a part of this solicitation entitled “Fulfillment and Registration Systems” Statement of Work.

### **C.2 INCORPORATION OF REPRESENTATIONS AND CERTIFICATIONS**

The Contractor’s Representations and Certifications, submitted in response to this solicitation’s Section K, **shall be maintained electronically at:** [www.bpn.gov/](http://www.bpn.gov/)

The login site can be found at <http://orca.bpn.gov/login.aspx>

For details see: [www.acqnet.gov/far/FAC/fac2001-26.pdf](http://www.acqnet.gov/far/FAC/fac2001-26.pdf)



## **SECTION D – PACKAGING AND MARKING**

### **D.1 PACKAGING AND MARKING**

Deliverables shall be marked in accordance with the contract Section G.13, Correspondence Procedures and Section J, Attachment J.1 Scope of Work, paragraph C – Deliverables.

## **SECTION E – INSPECTION AND ACCEPTANCE**

### **E.1 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address: [www.arnet.gov/far](http://www.arnet.gov/far)

52.246-4 INSPECTION OF SERVICES -- FIXED-PRICE (AUG. 1996)

### **E.2 INSPECTION AND ACCEPTANCE (SERVICES)**

- All work under this contract is subject to inspection and final acceptance by the Contracting Officer or the duly authorized representative of the Government.
- The Government's Project Officer is a duly authorized representative of the Government and is responsible for inspection and acceptance of all items to be delivered under this contract.
- Inspection and acceptance of the Contractor's performance shall be in accordance with the applicable FAR Clauses in Section E.3 below.

### **E.3 ACCEPTANCE BY THE PROJECT OFFICER/GOVERNMENT TASK LEADER**

All items to be delivered to the PO/GTL will be deemed to have been accepted 30 calendar days after the date of delivery, except as otherwise specified in this contract if written approval or disapproval has not been given within such period. The PO/GTL's acceptance or revision to the items submitted shall be within the general scope of the work stated in this contract.

## **SECTION F – DELIVERIES OR PERFORMANCE**

### **F.1 52.252-2 Contract Clauses Incorporated by Reference (Feb 1998)**

This contract incorporates one or more clauses by reference with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address:

<http://www.arnet.gov>

52.242-15 STOP-WORK ORDER (AUG 1989)

### **F.2 ITEMS TO BE FURNISHED AND DELIVERY SCHEDULE**

The Contractor shall furnish the items required under this contract in accordance with the reporting instructions and delivery schedule set forth in the Schedule of Deliverables provided by way of SOW. All deliverables required under this contract shall be furnished. The Contractor shall guarantee that all required materials shall be delivered in immediate usable and acceptable condition.

Satisfactory performance of the final contract shall be deemed to occur upon delivery and acceptance by the Contracting Officer, or the duly authorized representative, of the requirements of this contract in accordance with the deliverable schedule.

### **F.3 PERIOD OF PERFORMANCE**

The work and services required hereunder shall be completed/delivered as follows:

The base Period of Performance is as follows:

March 1, 2006 – February 28, 2007

If the Government exercises its renewal options, the subsequent period of performance(s) will be increased as follows:

Optional Year 1 March 1, 2007 – February 29, 2008

Optional Year 2 March 1, 2008 – February 28, 2009

Optional Year 3 March 1, 2009 – February 28, 2010

Optional Year 4 March 1, 2010 – February 28, 2011

## **SECTION G – CONTRACT ADMINISTRATION DATA**

### **G.1 ACCOUNTING AND APPROPRIATION DATA**

### **G.2 INVOICING AND PAYMENT**

Submission of invoices for payment:

1. Once each month following the effective date of the contract, the Contractor may submit to the Government an invoice (or public voucher) for payment, in accordance with FAR Clause 52.216-7 "Allowable Cost & Payment" and 52.232-1, Payments. Invoices shall be prepared in accordance with the "Billing Instructions" attached hereto and made a part of this contract. The Government shall make provisional payments on all invoices pending the completion of a final audit of the Contractor's cost records.

2. To expedite payment, invoices shall be prepared and submitted as follows:

--Original and four (4) copies shall be submitted to the address below:

Department of Health and Human Services  
Centers for Medicare and Medicaid Services  
OFM/Division of Accounting Operations  
P.O. Box 7520  
7500 Security Boulevard  
Baltimore, MD 21207-0520

--For overnight delivery:

Department of Health and Human Services  
Centers for Medicare and Medicaid Services  
OFM/Division of Accounting Operations  
7500 Security Boulevard/Mailstop: C3-09-27  
Baltimore, MD 21244-1850

--If federal express delivery is desired invoices shall be submitted to the address below:

The Centers for Medicare and Medicaid Services  
ATTN: Mailstop: C2-09-27  
7500 Security Boulevard  
Baltimore, MD 21244

--One (1) copy shall be sent to the Project Officer.

3. Content of invoice:

- Contractor's name
- Invoice date;
- Contract Number
- Description, cost or price and quantity of property and/or services actually delivered or rendered, breakout of hours incurred by labor category;
- Shipping and payment terms;
- Other substantiating documentation or information as required by the contract;
- Name, title, phone number and complete mailing address of responsible official to whom payment is to be sent;
- Name, title, phone number of person to notified in the event of a defective invoice
- Period of performance or delivery date of goods or services provided.

4. Invoice payment

Reimbursement for invoices submitted under this contract shall be made not later than thirty (30) days after receipt of the original invoice from the Contractor in the copies requested at the paying office designated above.

Payment will be authorized after the Division of Accounting has audited the invoice in accordance with Federal regulations. This audit includes certification of the invoice by the Project Officer and verification that the invoice amount is consistent with the payment schedule set forth under Section B of the contract. Any discrepancies determined as a result of the audit could delay the processing of the invoice and may result in the invoice being returned to the Contractor for corrections.

5. Interest on overdue payment

The Prompt Payment Act, Public Law 97-177 (96 Stat.85.31 U.S.C. 1801) is applicable to payments under this contract and requires the payment of interest on payments made more than 30 days after receipt of an invoice by the Division of Accounting Operations.

Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A-125.

### **G.3 METHOD OF PAYMENT**

In accordance with FAR 52.232-33, the Centers for Medicare and Medicaid Services (CMS) shall only make an electronic reimbursement/payment.

In accordance with FAR 52.204-7, the contractor must register in the Central Contractor Registration (CCR) database. Failure to register in CCR may prohibit CMS from making awards to your organization.

The contractor shall notify CMS' Division of Accounting Operations of all EFT and address changes in CCR via the following email address: [CCRChanges@cms.hhs.gov](mailto:CCRChanges@cms.hhs.gov)

### **G.4 GOVERNMENT PROJECT OFFICER**

\_\_\_\_\_ is hereby designated as the Project Officer. The Project Officer responsibilities shall include continuous monitoring of the Contractor's compliance with all substantive project objectives. Specific duties and responsibilities are identified in G.5, Technical Direction.

### **G.5 TECHNICAL DIRECTION**

- a. Technical direction is defined, for the purposes of this contract, as follows:
  - i. Directions to the Contractor that redirect the contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details or otherwise serve to accomplish the contractual statement of work.
  - ii. Provision of information to the Contractor that assists in the interpretation of drawings, specifications, or technical portions of the work description.
  - iii. Review and, where required by the contract, approval of technical reports, drawings, specifications, and technical information to be delivered by the Contractor to the Government under the contract.
- b. Technical direction must be within the general Scope of Work stated in the contract. The Project Officer does not have the authority to and may not issue any technical directions which:
  - i. Constitutes an assignment of additional work outside the general Scope of Work of the contract.

- ii. Constitutes a change as defined in the contract clause entitled "Changes - Cost Reimbursement."
  - iii. In any manner cause an increase or decrease in the total estimated contract cost, fixed-fee, or the time required for contract performance.
  - iv. Change any of the expressed terms, conditions, or specifications of the contract.
- c. All technical direction shall be issued in writing by the Project Officer or shall be confirmed by him/her in writing within 5 working days after issuance.
- d. The Contractor shall proceed promptly with the performance of technical direction duly issued by the Project Officer in the manner prescribed by this article and within his/her authority under the provisions of this article.
- e. If, in the opinion of the Contractor, any instruction or direction issued by the Project Officer is within one of the categories as defined in (1) through (4) above, the Contractor shall not proceed but shall notify the Contracting Officer in accordance with FAR 52.243-7 Notification of Changes.

## **G.6 CONTRACTING OFFICER**

In accordance with HHSAR 352.202-1 Definitions, The term Contracting Officer means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority delegated by the Contracting Officer.

Notwithstanding any of the other provisions of this Contract, the Contracting Officer shall be the ONLY individual authorized to:

- a. enter into and commit/bind the Government by contract for supplies or services;
- b. accept nonconforming work or waive any requirement of this Contract;
- c. authorize reimbursement to the Contractor for any costs incurred during the performance of the Contract, and
- d. modify any term or condition of this Contract, i.e., make any changes in the Statement of Work; modify/extend the period of performance; change the delivery schedule.

#### **G.7 USE OF GOVERNMENT – DATA (REPORTS/FILES/COMPUTER TAPES OR DISCS)**

Any data given to the Contractor by the Government shall be used only for the performance of the contract unless the Contracting Officer specifically permits another use, in writing. Should the Contracting Officer permit the Contractor the use of Government-supplied data for a purpose other than solely for performance of this contract and, if such use could result in a commercially viable product, the Contracting Officer and the Contractor must negotiate a financial benefit to the Government. This benefit should most often be in the form of a reduction in the price of the contract; however, the Contracting Officer may negotiate any other benefits he/she determines is adequate compensation for the use of these data.

Upon the request of the Contracting Officer, or the expiration date of this contract, whichever shall come first, the Contractor shall return or destroy all data given to the Contractor by the Government. However, the Contracting Officer may direct that the data be retained by the Contractor for a specific period of time, which period shall be subject to agreement by the Contractor. Whether the data are to be returned, retained, or destroyed shall be the decision of the Contracting Officer with the exception that the Contractor may refuse to retain the data. The Contractor shall retain no data, copies of data, or parts thereof, in any form, when the Contracting Officer directs that the data be returned or destroyed. If the data are to be destroyed, the Contractor shall directly furnish evidence of such destruction in a form the Contracting Officer shall determine is adequate.

#### **G.8 HHSAR 352.270-5 KEY PERSONNEL**

The personnel specified in this contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other programs, the Contractor shall notify the Contracting Officer reasonably in advance and shall submit justification\* (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Contractor without the written consent of the Contracting Officer; provided, that the Contracting Officer may ratify in writing such diversion and such ratification shall constitute the consent of the Contracting Officer required by the clause. The contract may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate.

\*All proposed substitutions shall be submitted, in writing, to CMS at least 30 days prior to the proposed substitution. Each request shall provide a detailed explanation of the circumstance necessitating the proposed substitution, a complete resume and any other information required by CMS. All proposed substitutions shall have qualifications equal to or greater than the person being replaced.



The following individuals are considered key personnel under this contract:

Program Manager: \_\_\_\_\_

Systems Maintainer: \_\_\_\_\_

Computer Programmer: \_\_\_\_\_

## **G.9 PROPERTY ADMINISTRATION**

The CMS Contract Property Administrator, Property and Distribution Management Section, Division of General Services, 7500 Security Blvd., Baltimore, Md. 21244, is hereby designated the property administration function for this contract. The Contractor agrees to furnish information regarding Government Property to the Property Administrator in the manner and to the extent required by the Property Administrator, his duly designated successors, and in accordance with FAR Part 45 and DHHS Manual entitled, Contractor's Guide for Control of Government Property, (1990).

If equipment is procured in order to provide services, CMS will retain title to the equipment. CMS must be notified as part of the itemized billing arrangement if there is an equipment acquisition, included in the cost of the contract.

All original tapes, video, CD ROM(s), manual, brochures, pamphlets shall remain the property of the CMS. The contractor shall provide to CMS all final, complete and editable web-based training course files.

If equipment is procured in the performance of this contract, CMS will retain title to the equipment. CMS must be notified as part of the itemized billing arrangement if there is an equipment acquisition, included in the cost of the contract.

## **G.10 CORRESPONDENCE PROCEDURES**

To promote timely and effective administration, correspondence (except for invoices), submitted under this contract shall be subject to the following procedures:

- a. Technical Correspondence - Technical correspondence (as used herein, this term excludes technical correspondence which proposes or otherwise involves waivers, deviations or modifications to the requirements, terms or conditions of this contract) shall be addressed to the PO with an informational copy of the basic correspondence to the Contracting Officer.

- b. Other Correspondence - All other correspondence shall be addressed to the Contracting Officer, in duplicate, with an informational copy of the basic correspondence to the PO.
- c. Subject Lines - All correspondence shall contain a subject line, commencing with the contract number as illustrated below:

EXAMPLE: Contract No. HHSM 500-2005-XXXX  
Request for Subcontract Consent

## **SECTION H – SPECIAL CONTRACT REQUIREMENTS**

### **H.1 CONDITIONS FOR PERFORMANCE**

In addition to the requirements identified in Attachment J.1, Statement of Work, the Contractor may be required to comply with the requirements of any revision in legislation or regulations which may be enacted or implemented during the period of performance of the contract. The revised legislation or regulations are incorporated into the contract without contract modification. If a revision to legislation or regulation would result a cost impact to the contract, the Contractor shall not proceed with the change but, notify the Contracting Officer in writing in accordance with FAR 52.243-7, Notification of Changes. New legislation or regulations, however, shall not be incorporated into the SOW without contract modification.

### **H.2 REHABILITATION ACT, SECTION 508, ACCESSIBILITY STANDARDS**

The contractor shall comply with the Rehabilitation Act, Section 508, Accessibility Standards as referenced below.

Federal Government Standards

Rehabilitation Act, Section 508, Accessibility Standards

29 U.S.C. 794d (rehabilitation Act as amended)

36 CFR 1194 (508 standards)

[www.access-board.gov/sec508/508standards.htm](http://www.access-board.gov/sec508/508standards.htm) (508 standards)

[www.section508.gov](http://www.section508.gov) (website)

FAR 39.2 (Section 508)

(guide for standards)

### **H.3 ADP SYSTEMS SECURITY REQUIREMENTS**

In the performance of this contract, the Contractor agrees to comply with the ADP system security requirements of the (OMB) Circular A-130, “Management of Federal Information Resources,” and with the ADP systems security policy of DHHS as outlined in Appendix D, HCFA Administrative Information Systems (AIS) Guide, Systems Security Policies. The Contractor shall include this requirement in any subcontract awarded under this contract.

## **H.4 HIPAA BUSINESS ASSOCIATE PROVISION**

### **Definitions:**

All terms used herein shall have the same meaning as in the Privacy Act, or the Privacy Rule as modified (45 CFR Sections 160 and 164) as applicable and the corresponding implementing regulations.

“Business Associate” shall mean the Contractor

“Covered Entity” shall mean CMS.

“Secretary” means the Secretary of the Department of Health and Human Services.

### **Obligations and Activities of Business Associate**

- (a) Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this Contract or as Required By Law.
- (b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Contract.
- (c) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Contract.
- (d) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Contract of which it becomes aware.
- (e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- (f) Business Associate agrees to provide access, at the request of Covered Entity, to Protected Health Information received by the Business Associate in the course of contract performance, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR 164.524.
- (g) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526 at the request of Covered Entity or an Individual.
- (h) Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of the Covered Entity, available to the Covered Entity, or to the Secretary for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (i) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for

Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

- (j) Business Associate agrees to provide to Covered Entity or an Individual information collected under this Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

### **Permitted Uses and Disclosures by Business Associate**

Except as otherwise limited in this Contract, Business Associate may use or disclose Protected Health Information on behalf of, or to provide services to, Covered Entity for purposes of the performance of this Contract, if such use or disclosure of Protected Health Information would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

### **Obligations of Covered Entity**

- (a) Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- (b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- (c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

### **Permissible Requests by Covered Entity**

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

### **Term of Provision**

- (a) The term of this Provision shall be effective as of the award date of the contract, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

- (1) Provide an opportunity for Business Associate to cure the breach or end the violation consistent with the termination terms of this Contract, covered Entity may terminate this Contract for default if the Business Associate does not cure the breach or end the violation within the time specified by Covered Entity; or
  - (2) Consistent with the terms of this Contract, terminate this Contract for default if Business Associate has breached a material term of this Contract and cure is not possible; or
  - (3) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.
- (c) Effect of Termination.
- (1) Except as provided in paragraph (2) of this section, upon termination of this Contract, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
  - (2) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon such notice that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Contract to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

## **Miscellaneous**

- (a) A reference in this Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (b) The Parties agree to take such action as is necessary to amend this Contract from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (c) The respective rights and obligations of Business Associate under this provision shall survive the termination of this Contract.
- (d) Any ambiguity in this Contract shall be resolved to permit Covered Entity to comply with the Privacy Rule.

## **H.5 SECTION 508 – ACCESSIBILITY OF ELECTRONIC AND INFORMATION TECHNOLOGY**

A. This contract is subject to Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) as amended by the workforce Investment Act of 1998 (P.L. 105-220).

Specifically, subsection 508(a)(1) requires that when the Federal Government procures Electronic and Information Technology (EIT), the EIT must allow Federal employees and individuals of the public with disabilities comparable access to and use of information and data that is provided to Federal employees and individuals of the public without disabilities.

B. The EIT accessibility standards at 36 CFR Part 1194 were developed by the Architectural and Transportation Barriers Compliance Board ("Access Board") and apply to contracts and task/delivery orders, awarded under indefinite quantity contracts on or after June 25, 2001.

C. Each Electronic and Information Technology (EIT) product or service furnished under this contract shall comply with the Electronic and Information Technology Accessibility Standards (36 CFR 1194), as specified in the contract, as a minimum. If the Contracting Officer determines any furnished product or service is not in compliance with the contract, the Contracting Officer will promptly inform the Contractor in writing. The Contractor shall, without charge to the Government, repair or replace the non-compliant products or services within the period of time to be specified by the Government in writing. If such repair or replacement is not completed within the time specified, the Government shall have the following recourses:

1. Cancellation of the contract, delivery or task order, purchase or line item without termination liabilities; or
2. In the case of custom Electronic and Information Technology (EIT) being developed by a contractor for the Government, the Government shall have the right to have any necessary changes made or repairs performed by itself or by another firm for the noncompliant EIT, with the contractor liable for reimbursement to the Government for any expenses incurred thereby.

D. The contractor must ensure that all EIT products that are less than fully compliant with the accessibility standards are provided pursuant to extensive market research and are the most current compliant products or services available to satisfy the contract requirements.

E. For every EIT product or service accepted under this contract by the Government that does not comply with 36 CFR 1194, the contractor shall, at the discretion of the Government, make every effort to replace or upgrade it with a compliant equivalent product or service, if commercially available and cost neutral, on either a contract specified refresh cycle for the product or service, or on a contract effective option/renewal date; whichever shall occur first.

## **H.6 DISSEMINATION, PUBLICATION AND DISTRIBUTION "CONFIDENTIAL INFORMATION"**

a. Confidential information, as used in this clause, means

- information or data of a personal nature about an individual,

- proprietary information or data submitted by, or pertaining to, an institution or organization, or,
  - information derive from preliminary invalidated findings which if publicly disclosed, could create erroneous conclusions which might threaten public health or safety, or otherwise negatively impact the party, if acted upon.
- a. Confidential information derived in accordance with this contract shall not be disclosed, duplicated, or used for any purpose other than the fulfillment of the requirements set forth in this contract without the prior written authorization of the Contracting Officer. This restriction does not limit the Contractor's right to use data or information obtained from a non-restrictive source.
- c. The Contracting Officer and the Contractor may, by mutual consent, identify elsewhere in this contract specific information and/or categories of information which the Government will furnish to the Contractor or that the Contractor is expected to generate, which is considered confidential. Similarly, the Contracting Officer and the Contractor may, by mutual consent, identify such Confidential Information from time to time during the performance of the contract. Failure to agree upon what is to be categorized as "Confidential Information" will be settled pursuant to the FAR 52.233-1, Disputes.
- d. If it is established elsewhere in this contract that information to be utilized under this contract, or a portion thereof, is subject to the Privacy Act, the Contractor will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. 552a, and implementing regulations and policies, with respect to systems of records determined to be subject to the Privacy Act.
- e. Requests for release of Confidential Information shall be submitted to the Contracting Officer at least 45 days in advance of the intended disclosure. **Disclosure of Confidential Information without the Contracting Officer's written authorization may result in a monetary penalty of up to \$500,000.00 and/or termination of the contract.**

#### **H.7 HHSAR 352.270-7 PAPERWORK REDUCTION ACT (JAN 2001)**

- a. In the event that it subsequently becomes a contractual requirement to collect or record information calling either for answers to identical questions from 10 or more persons other than Federal employees, or information from Federal employees which is outside the scope of their employment, for use by the Federal government or disclosure to third parties, the Paperwork Reduction Act of 1995 (Pub. L. 104-13) shall apply to this contract. No plan, questionnaire, interview guide or other similar device for collecting information (whether repetitive or single-time) may be used without first obtaining clearance from the Office of Management and Budget (OMB). Contractors and Project Officers should be guided by the provisions of 5 CFR 1320, Controlling Paperwork Burdens on the Public, and seek the advice of the HHS



operating division or Office of the Secretary Reports Clearance Officers to determine the procedures for acquiring OMB clearance.

- b. The Contractor shall obtain the required OMB clearance through the Project Officer before expending any funds or making public contacts for the collection of data. The authority to expend funds and proceed with the collection of information shall be in writing by the Contracting Officer. The Contractor must plan at least 120 days for OMB clearance. Excessive delays caused by the Government which arises out of causes beyond the control and without the fault or negligence of the Contractor will be considered in accordance with the Excusable Delays or Default clause of this contract.

## **H.8 APPROVAL OF CONTRACT ACQUIRED INFORMATION TECHNOLOGY (IT)**

- a. The Contractor must obtain the Contracting Officer's written approval prior to the acquisition of any IT investments (see FAR Part 2.101, for definition of IT) to ensure compatibility and successful integration with CMS's infrastructure/architecture.
- b. In the performance of a system life cycle development project, the Contractor must submit to the Project Officer the technical specifications for each of the following incremental phase of the projected life cycle prior to the commencement of work:
  - 1. Design and Engineering;
  - 2. Development; and,
  - 3. Testing;
- b. Upon written approval from the Contracting Officer, the Contractor shall commence work under the approved technical specification for the authorized incremental phase.
- c. In either instance of an approved IT investment acquisition, or an incremental phase of a system life cycle development project, the contract shall be modified accordingly and the Contractor shall proceed.
- d. CMS may disallow any contractor incurred cost that would not be allocated to the approved IT investment acquisition.

## **PART II – CONTRACT CLAUSES**

### **SECTION I - CONTRACT CLAUSES**

#### **I.1 FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at the following Internet address: <http://www.arnet.gov/far/>.

52.201-1	DEFINITIONS (JUL 2004)
52.203-3	GRATUITIES (APR 1984)
52.203-5	COVENANT AGAINST CONTINGENT FEES (APR 1984)
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995)
52.203-7	ANTI-KICKBACK PROCEDURES (JUL 1995)
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JUN 2003)
52.204-4	PRINTED/COPYIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)
52.209-6	PROTECTING THE GOVERNMENTS INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUL 1995)
52.215-2	AUDIT AND RECORDS--NEGOTIATION (JUN 1999)
52.215-2	AUDIT AND RECORDS--NEGOTIATION (JUN 1999) -- ALTERNATE III (APR 1999)
52.215-8	ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT (OCT 1997)
52.215-10	PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997)
52.215-11	PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA -- MODIFICATIONS (OCT 1997)
52.215-12	SUBCONTRACTOR COST OR PRICING DATA (OCT 1997)
52.215-13	SUBCONTRACTOR COST OR PRICING DATA -- MODIFICATIONS (OCT 1997)
52.215-15	PENSION ADJUSTMENTS AND ASSET REVERSIONS (JAN 2004)
52.215-17	WAIVER OF FACILITIES COST OF MONEY (OCT 1997)

52.215-18	REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (OCT 1997)
52.215-21	REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA -- MODIFICATIONS (OCT 1997) -- ALTERNATE III (OCT 1997)
52.216-4	ECONOMIC PRICE ADJUSTMENT – LABOR AND MATERIAL (JAN 1997)
52.216-19	ORDER LIMITATIONS (OCT 1995)
52.217-9	OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2000)
52.219-14	LIMITATIONS ON SUBCONTRACTING (DEC 1996)
52.219-18	NOTIFICATION OF COMPETITION LIMITED TO ELIGIBLE 8(a) CONCERNS (JUN 2003)
52.222-1	NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)
52.222-3	CONVICT LABOR (JUN 2003)
52.222-26	EQUAL OPPORTUNITY (APR 2002)
52.222-35	EQUAL OPPORTUNITY FOR SPECIAL DISABLED AND VIETNAM ERA VETERANS, and OTHER ELIGIBLE VETERANS. (DEC 2001)
52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES. (JUN 1998)
52.222-37	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA, and OTHER ELIGIBLE VETERANS (DEC 2001)
52.222-41	SERVICE CONTRACT ACT OF 1965, AS AMENDED (MAY 1989)
52.222-43	FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENTS (MULTIPLE YEAR AND OPTION CONTRACTS) (MAY 1989)
52.222-44	FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENTS (FEB 2002)
52.223-6	DRUG-FREE WORKPLACE (MAY 2001)
52.223-14	TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)
52.224-1	PRIVACY ACT NOTIFICATION (APR 1984)
52.224-2	PRIVACY ACT (APR 1984)
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JAN 2004)
52.226-1	UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (JUN 2000)
52.227-1	AUTHORIZATION AND CONSENT (JUL 1995)
52.227-2	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 1996)
52.227-3	PATENT INDEMNITY (APR 1984)
52.227-11	PATENT RIGHTS - RETENTION BY THE CONTRACTOR (SHORT FORM) (JUN 1997)
52.227-12	PATENT RIGHTS - RETENTION BY THE CONTRACTOR (LONG FORM) (JAN 1997)

52.227-17	RIGHTS IN DATA - SPECIAL WORKS (JUN 1987)
52.229-3	FEDERAL, STATE, AND LOCAL TAXES (APR 2003)
52.232-1	PAYMENTS (APR 1984)
52.232-8	DISCOUNTS FOR PROMPT PAYMENT (FEB 2002)
52.232-9	LIMITATION ON WITHHOLDING OF PAYMENTS (APR 1984)
52.232-11	EXTRAS (APR 1984)
52.232-17	INTEREST (JUN 1996)
52.232-19	AVAILABILITY OF FUNDS FOR NEXT FISCAL YEAR (APR 1984)
52.232-23	ASSIGNMENT OF CLAIMS (JAN 1986)
52.232-25	PROMPT PAYMENT (OCT 2003)
52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER –CENTRAL CONTRACTOR REGISTRATION (OCT 2003)
52.233-1	DISPUTES (JUL 2002) -- ALTERNATE I (DEC 1991)
52.237-3	CONTINUITY OF SERVICES (JAN 1991)
52.237-7	INDEMNIFICATION AND MEDICAL LIABILITY INSURANCE (JAN 1997)
52.239-1	PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)
52.242-1	NOTICE OF INTENT TO DISALLOW COSTS (APR 1984)
52.242-13	BANKRUPTCY (JUL 1995)
52.243-1	CHANGES - FIXED-PRICE (AUG 1987) -- ALTERNATE I (APR 1984)
52.243-7	NOTIFICATION OF CHANGES (APR 1984) (Insert <u>5</u> calendar days in paragraph (b) and insert <u>15</u> calendar days in paragraph (d))
52.244-5	COMPETITION IN SUBCONTRACTING (DEC 1996)
52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS (JUL 2004)
52.245-1	PROPERTY RECORDS (APR 1984)
52.245-2	GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS) (MAY 2004)
52.245-4	GOVERNMENT-FURNISHED PROPERTY (SHORT FORM) (JUN 2003)
52.246-25	LIMITATION OF LIABILITY - SERVICES (FEB 1997)
52.248-1	VALUE ENGINEERING (FEB 2000)
52.249-2	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (MAY 2004)
52.249-8	DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)
52.251-1	GOVERNMENT SUPPLY SOURCES (APR 1984)
52.252-4	ALTERATIONS IN CONTRACT (APR 1984)
52.253-1	COMPUTER GENERATED FORMS (JAN 1991)

**I.2 HHSAR 352-252-20 DEPARTMENT OF HEALTH AND HUMAN SERVICES ACQUISITION REGULATIONS (HHSAR)**  
**<http://knownet.hhs.gov/acquisition/hhsar/default.htm>**

352.202-1	DEFINITIONS (JAN 2001)
352.228-7	INSURANCE - LIABILITY TO THIRD PERSONS (DEC 1991)
352.232-9	WITHHOLDING OF CONTRACT PAYMENTS (APR 1984).
352.233-70	LITIGATION AND CLAIMS (APR 1984)
352.242-71	FINAL DECISIONS ON AUDIT FINDINGS (APR 1984)
252.249-14	EXCUSABLE DELAYS (APR 1984)
352.270-4	PRICING OF ADJUSTMENTS (JAN 2001)
352.270-6	PUBLICATION AND PUBLICITY (JUL 1991)

**I.3 FAR 52.204-7 CENTRAL CONTRACTOR REGISTRATION (OCT 2003)**

(a) Definitions. As used in this clause—

“Central Contractor Registration (CCR) database” means the primary Government repository for Contractor information required for the conduct of business with the Government.

“Data Universal Numbering System (DUNS) number” means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

“Data Universal Numbering System +4 (DUNS+4) number” means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same parent concern.

“Registered in the CCR database” means that—

- (1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and
- (2) The Government has validated all mandatory data fields and has marked the record “Active.”

(b)

- (1) By submission of an offer, the Offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

- (2) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS +4” followed by the DUNS or DUNS +4 number that identifies the Offeror’s name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the Offeror is registered in the CCR database.
- (c) If the Offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.
  - (1) An Offeror may obtain a DUNS number—
    - (i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at <http://www.dnb.com>; or
    - (ii) If located outside the United States, by contacting the local Dun and Bradstreet office.
  - (2) The Offeror should be prepared to provide the following information:
    - (i) Company legal business.
    - (ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.
    - (iii) Company Physical Street Address, City, State, and ZIP Code.
    - (iv) Company Mailing Address, City, State and ZIP Code (if separate from physical).
    - (v) Company Telephone Number.
    - (vi) Date the company was started.
    - (vii) Number of employees at your location.
    - (viii) Chief executive officer/key manager.
    - (ix) Line of business (industry).
    - (x) Company Headquarters name and address (reporting relationship within your entity).
- (d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

- (e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.
- (f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.
- (g)
  - (1)
    - (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.
      - (ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.
  - (2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

- (h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

#### **I.4 FAR 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)**

- (a) The Contractor shall make the following notifications in writing:

- (1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.
- (2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.

- (b) The Contractor shall--

- (1) Maintain current, accurate, and complete inventory records of assets and their costs;
- (2) Provide the ACO or designated representative ready access to the records upon request;
- (3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractors ownership changes; and
- (4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.

- (c) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(k).

#### **I.5 FAR 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)**

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within the period specified in the schedule.



**I.6 52.219-17 SECTION 8(a) AWARD (DEC 1996)**

(a) By execution of a contract, the Small Business Administration (SBA) agrees to the following:

(1) To furnish the supplies or services set forth in the contract according to the specifications and the terms and conditions by subcontracting with the Offeror who has been determined an eligible concern pursuant to the provisions of section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)).

(2) Except for novation agreements and advance payments, delegates to the CMS/OAGM the responsibility for administering the contract with complete authority to take any action on behalf of the Government under the terms and conditions of the contract; provided, however that the contracting agency shall give advance notice to the SBA before it issues a final notice terminating the right of the subcontractor to proceed with further performance, either in whole or in part, under the contract.

(3) That payments to be made under the contract will be made directly to the subcontractor by the contracting activity.

(4) To notify the CMS/OAGM Contracting Officer immediately upon notification by the subcontractor that the owner or owners upon whom 8(a) eligibility was based plan to relinquish ownership or control of the concern.

(5) That the subcontractor awarded a subcontract hereunder shall have the right of appeal from decisions of the cognizant Contracting Officer under the "Disputes" clause of the subcontract.

(b) The offeror/subcontractor agrees and acknowledges that it will, for and on behalf of the SBA, fulfill and perform all of the requirements of the contract.

(c) The offeror/subcontractor agrees that it will not subcontract the performance of any of the requirements of this subcontract to any lower tier subcontractor without the prior written approval of the SBA and the cognizant Contracting Officer of the CMS/OAGM.  
(End of Clause)

**I.7 FAR 52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES. (MAY 1989)**

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (20 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

EMPLOYEE CLASS MONETARY WAGE-FRINGS BENEFIT

**I.8 FAR 52.222-49 SERVICE CONTRACT ACT - PLACE OF PERFORMANCE UNKNOWN. (MAY 1989)**

(a) This contract is subject to the Service Contract Act, and the place of performance was unknown when the solicitation was issued. In addition to places or areas identified in

wage determinations, if any, attached to the solicitation, wage determinations have also been requested for the following: [insert places or areas]. The Contracting Officer will request wage determinations for additional places or areas of performance if asked to do so in writing by [insert time and date].

- (b) Offerors who intend to perform in a place or area of performance for which a wage determination has not been attached or requested may nevertheless submit bids or proposals. However, a wage determination shall be requested and incorporated in the resultant contract retroactive to the date of contract award, and there shall be no adjustment in the contract price.
- (c) Wage Determinations will be incorporated as an attachment when the place of performance is determined.

**PART III – LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.**

**SECTION J – LIST OF ATTACHMENTS**

- J.1 STATEMENT OF WORK
- J.2 **RESERVED** FOR WAGE DETERMINATIONS
- J.3 BILLING INSTRUCTIONS
- J.4 PAST PERFORMANCE QUESTIONNAIRE
- J.5 BUILDING LOCATION INSTRUCTIONS

## **Fulfillment & Registration Systems STATEMENT OF WORK**

### **I. Scope**

#### **A. Background**

The Division of Provider Information Planning & Development (DPIPD) is the only division within the Centers for Medicare & Medicaid Services (CMS) that has the responsibility to educate all health care provider types nationwide. DPIPD's mission is to use education and customer service to build positive business-to-business relationships with physicians, health care facilities, providers and suppliers. To build these relationships, DPIPD works with Medicare contractors, CMS Central Office and Regional Office components and various health care organizations to ensure that health care professionals receive timely, accurate and relevant Medicare coverage and payment information. DPIPD is the only division level component in CMS that is responsible for deploying distance learning to all types of providers and all types of contractors. There is a wide variety of material and media we use to disseminate our educational information.

In working to achieve its mission, DPIPD created the Medicare Learning Network. The Medicare Learning Network is the products, services and activities that CMS and its Medicare contractors undertake to reach out to the Medicare provider community with education and customer service. The distance learning products and services of the Medicare Learning Network include train-the-trainer sessions, satellite broadcasts, videotapes, audiotapes, web-based training and computer based training courses, and a variety of publications. These products are available to health care providers free of charge through the Medicare Learning Network's Medlearn web page, <http://cms.hhs.gov/medlearn> on the CMS website.

**NOTE:** DPIPD has an existing Learning Management System (LMS) that will be maintained by the contractor. This RFP refers to the maintaining and revision of the existing system. We are not asking for a new LMS to be developed.

#### **B. Purpose**

The purpose of this contract is to obtain product fulfillment services and hosting and technical support services for the Medicare Learning Network's Learning Management and Product Ordering System. The product fulfillment services include maintaining inventory, packaging and mailing Medicare Learning Network products to the health care community and the general public. The product media types consist of pamphlets, brochures, videotapes, audiotapes, CDROM's, DVDs, and a wide variety of other publications.

### **II. Requirements**

**A. Contractor Requirements**

The contractor shall provide the following services:

1. Hosting Service
  - a. Provide a hosting service to serve up, on demand, a minimum of ten on-line courses. Ensure that the courses will be available 24 hours a day, 7 days a week.
  - b. Provide a hosting service and database storage for Medicare Learning Network (MLN) Learning Management System (LMS).
  - c. Provide a hosting service and database storage for MLN product ordering system.
  - d. Number of annual learners estimated at 50,000.
  - e. Provide a secure hosting service that meets all CMS IT standards.
2. Technical Support
  - a. Provide technical and trouble shooting support for learners using the MLN registration and product ordering system including help functions.
  - b. Load new courses and remove old courses within 5 working days of CMS request.
  - c. Provide necessary programming to allow any new courses developed by CMS, up to 10 new courses, to communicate with the LMS and make courses SCORM compliant.
  - d. Provide a testing site for beta testing and pilot testing of the new web-based training courses. This testing site should be accessible by CMS staff or individuals outside of CMS to test the courses while maintaining CMS IT security standards.
  - e. Prepare all necessary CMS clearance documents such as OMB clearances and CMS IT system security plans.
  - f. Maintain the database containing the information necessary for CMS to become an accredited provider of continuing education.
  - g. Program all existing evaluation sets to communicate with the established evaluation scanning system
  - h. Provide script to allow for anonymous user evaluations to be imported into the evaluation sets in the LMS using the evaluation scanning system.
  - i. Provide evaluation-reporting mechanisms through the existing learning management system that will allow CMS to obtain evaluation data.
  - j. Evaluations for all training and product types including in-person training will be entered into the learning management system using the evaluation scanner.
3. LMS and Product Ordering System Maintenance
  - a. Maintain the LMS and product ordering system to full functioning capability at all times
  - b. Correct any system errors or problems with the LMS or product ordering system within 48 hours.
  - c. Make any data table or system modifications to the LMS or product ordering system requested by CMS. Since the system and data tables are already established, system changes will be requested to enhance the reporting system or to collect new data. Not to exceed 15 modifications per year.

4. MLN Product Fulfillment

- a. Store all MLN products including video tapes, publications, DVDs and CD ROMs
- b. Provide all envelopes, boxes, and all appropriate packing materials and supplies.
- c. Print mailing labels from the Medlearn product ordering system.
- d. Package, address and mail the Medlearn products.
- e. Provide postage for all Medlearn products mailed  
All orders will be shipped by general mail unless special arrangements are made by CMS.
- f. Reproduce the cover letter to be included in all orders. Original cover letter to be provided by CMS.
- g. Receive new inventory into the product ordering system
- h. Responsible for unloading shipment of new products from printer
- i. Scan all hard copy product and course evaluations using the evaluation scanning system and upload the data into the LMS.

5. Reporting and documentation requirements

Monthly reports will be provided on the last Monday of the month indicating the status of all active products.

6. Transition Period

There will be a 21 day transition period. The incumbent will transfer all inventory, hard copy and electronic files, LMS system files, staging and production server files and database, inventory tracking files, evaluation scanner, forms and files and all other files and items obtained under the contract to the new contractor.

**B. Specific Requirements**

- All orders will be filled within 7-10 working days from the date of the order request.
- Contractor will be responsible to provide a secure environment for the following:
  1. Warehouse space for product inventory
  2. Warehouse space for mailing supplies
  3. LMS and product ordering system data
- It is estimated that there will be approximately 200,000 product requests during the period of performance for this contract. Of the 200,000 product requests, it is estimated that 15,000 will be requests for one videotape product.

**C. Deliverables**

**Monthly Progress Report:**

The Contractor shall submit one (1) copy to the Contracting Officer and the Project Officer of a monthly progress report briefly stating the progress made, including percent completion of Task Order during the reporting period. The Monthly Progress Report, at a minimum shall include: 1) difficulties encountered during the reporting period, remedial action taken and a statement of activity anticipated during the subsequent reporting period; 2) any proposed changes of key personnel concerned with the Task Order and/or contract effort; 3) number of resources hours expended by labor category; 4) monthly cost incurred by labor category; and 5) total costs incurred by labor category and individual resource cost within each labor category. The monthly progress reports shall be submitted on or before the fifteenth day of each month, following the first complete month of contract performance.

**Individual Master CD-ROMs:**

1. Create an individual master CD-Rom for any future web-based training courses produced by CMS. This individual master should have functional Internet links and an executable file that will launch the course.

**D. Period of Performance**

The base period of performance shall be 365 days from date of award.  
There shall be four optional periods of performance of 365 days each.

**E. Place of Performance**

All work shall be performed at the contractor's facility.

**F. Government Property**

- All original tapes, video, CD Rom's, manual, brochures, pamphlets shall remain the property of the CMS.
- The contractor shall provide to CMS all final, complete and editable web-based training course files.
- LMS and product ordering system and all associated data tables and files

**G. Key Personnel**

Project Manager:

- Experienced in a project of similar scope and size
- Demonstrates the ability in both oral and written communication with all levels of management of planning and control of projects.

Systems Maintainer:

- Experienced in maintaining server systems
- Experienced in trouble shooting systems problems
- Experienced in maintaining server systems security
- Experienced in maintaining and working with a learning management system and product ordering system

Computer programmer:

- Experienced in programming web-based training courses to communicate with a learning management system
  - Experienced in SCORM compliant programming
- Experienced in working with a learning management system and product ordering system and making system changes



## **BILLING INSTRUCTIONS**

PAGE 1 OF 4

### **INVOICE/FINANCING REQUEST INSTRUCTIONS FOR CMS TIME AND MATERIAL & COST-REIMBURSEMENT TYPE CONTRACTS**

**General:** The Contractor shall submit claims for reimbursement in the manner and format described herein and as illustrated in the sample invoice/financing request.

**Format:** Standard Form 1034, Public Voucher for Purchases and Services Other Than Personal; and Standard Form 1035, Public Voucher for Purchases and Services Other Than Personal--Continuation Sheet, or reproduced copies of such forms marked ORIGINAL should be used to submit claims for reimbursement.

**Number of Copies:** As indicated in the Invoice Submission/Contract Financing Request clause in the contract.

**Frequency:** Invoices/financing requests submitted in accordance with the payment clause shall be submitted monthly unless otherwise authorized by the Contracting Officer.

**Cost Incurrence Period:** Costs incurred must be within the contract performance period or covered by pre-contract cost provisions.

**Billing of Costs Incurred:** If billed costs include: (1) Costs of a prior billing period, but not previously billed, or (2) costs incurred during the contract period and claimed after the contract period has expired, the amount and month(s) in which such costs were incurred shall be cited.

**Contractor's Fiscal Year:** Invoices/financing requests shall be prepared in such a manner that costs claimed can be identified with the Contractor's fiscal year.

**Currency:** All CMS contracts are expressed in United States dollars. Where expenditures are made in a currency other than United States dollars, billings on the contract shall be expressed, and reimbursement by the United States Government shall be made, in that other currency at amounts coincident with actual costs incurred. Currency fluctuations may not be a basis of gain or loss to the Contractor. Notwithstanding the above, the total of all invoices paid under this contract may not exceed the United States dollars authorized.

**Costs Requiring Prior Approval:** Costs requiring the Contracting Officer's approval which are not set forth in an advance understanding in the contract shall be so identified.

**Invoice/Financing Request Identification:** Each invoice/financing request shall be identified as either:

PAGE 2 OF 4

(a) Cost Reimbursable - Financing Request: These are interim payment requests submitted during the contract performance period.

(b) Completion/Final Invoice: The completion invoice is a final invoice which is submitted promptly upon completion of the work, but no later than one year from the contract completion date. The completion invoice should be submitted when all costs (except for finalization of indirect cost rates) have been assigned to the contract and all performance provisions have been completed. A revised final invoice may be required after the amounts owed have been settled between the Government and the Contractor (e.g., final indirect cost rates and resolution of all suspensions and audit exceptions).

Preparation and Itemization of the Invoice/Financing Request: The Contractor shall furnish the information set forth in the explanatory notes below. These notes are keyed to the entries of the sample invoice/financing request.

(a) Paying Office and Address: The paying office and address, identified in the Invoice Submission/Contract Financing Request clause of the contract, shall be entered on all copies of the invoice/financing request.

(b) Invoice/Financing Request Number: Insert the appropriate serial number of the invoice/financing request.

(c) Date of Invoice/Financing Request: Insert the date of the invoice/financing request is prepared.

(d) Contract Number and Date: Insert the contract number and the date of the contract.

(e) Payee's Name and Address: Show the Contractor's name (as it appears in the contract), correct address, and the title and phone number of the responsible official to whom payment is to be sent. When an approved assignment has been made by the Contractor, or a different payee has been designated, then insert the name and address of the payee instead of the Contractor.

(f) Contract Amount: Insert the total estimated cost of the contract, exclusive of fixed-fee. For incrementally funded contracts, enter the amount currently obligated and available for payment.

(g) Fixed-Fee: Insert the total fixed-fee (where applicable).

(h) Billing Period: Insert the beginning and ending dates (day, month, and year of the period in which costs were incurred and for which reimbursement is claimed.

(l) Amount Billed for Current Period: Insert the amount billed for the major cost elements, adjustment and adjusted amounts for the period.

(j) Cumulative Amount from Inception to Date of this Billing: Insert the cumulative amounts billed for the major cost elements and adjusted amounts claimed during this contract.

(k) Direct Costs: Insert the major cost elements. For each element, consider the application of the paragraph entitled Costs Requiring Prior Approval on page 1 of these instructions.

(1) Direct Labor: This consists of salaries and wages paid (or accrued for direct performance of the contract.

(2) Fringe Benefits: This represents fringe benefits applicable to direct labor and billed as a direct cost. Fringe benefits included in indirect costs should not be identified here.

(3) Nonexpendable Equipment: This category of cost includes permanent research equipment and general purpose equipment having a unit acquisition cost of \$1,000 or more and having an expected service life of more than two years. Prepare and attach Form HHS-565 in accordance with the following instructions:

List each item for which reimbursement is requested. A reference shall be made to the following (as applicable):

(A) The item number for the specific piece of equipment listed in the Property Schedule;

(B) The Contracting Officer's Authorization letter and number, if the equipment is not covered by the Property Schedule, or;

(C) Be preceded by an asterisk (\*) if the equipment is below the approval level.

Further itemization of invoices/financing requests shall only be required for items having specific limitations set forth in the contract.

(4) Materials and Supplies: This category includes equipment with unit costs of less than \$500 or an expected service life of two years or less, and consumable material and supplies regardless of amount.

- (5) Premium Pay: This is remuneration in excess of the basic hourly rate.
- (6) Consultant Fee: Fees paid to consultants. Identify consultant by name or category as set forth in the contract's advance understanding , as well as the effort (i.e., number of hours, days, etc.) and rate being billed.
- (7) Travel: Domestic travel is travel within the United States, its territories, possessions and Canada for Contractors located there; otherwise it is the Contractor's own country. It should be billed separately from foreign travel.
- (8) Subcontract Costs: List subcontractor(s) by name and amount billed.
- (9) Other: List all other direct costs in total unless exceeding \$1,000 in amount. If over \$1,000, list cost elements and dollar amount separately. If the contract contains restrictions on any cost element, that cost element should be listed separately.
- (l) Cost of Money (COM): Cite the COM factor and base in effect during the time the cost was incurred and for which reimbursement is claimed.
- (m) Indirect Costs--Overhead: Cite the formula (rate and base) in effect during the time the cost was incurred and for which reimbursement is claimed. If special rate is being used; e.g., off-site, then so specify.
- (n) Fixed-Fee: If the contract provides for a fixed-fee, it must be claimed as provided for by the contract. Cite the formula or method of computation.
- (o) Total Amounts Claimed: Insert the total amounts claimed for the current and cumulative periods.
- (p) Adjustments: This includes amounts conceded by the Contractor, outstanding suspensions and disapprovals subject to appeal.
- (q) Grand Totals

# PAST PERFORMANCE QUESTIONNAIRE

[COMPANY LETTERHEAD]

Reference Name and Address

Date

Dear \_\_\_\_\_:

We are currently responding to the Centers for Medicare and Medicaid Services (CMS) Request for Proposal number CMS-2005-MLN . The purpose of this contract is to obtain product fulfillment services and hosting and technical support services for the Medicare Learning Network's Learning Management and Product Ordering System. The product fulfillment services include maintaining inventory, packaging and mailing Medicare Learning Network products to the health care community and the general public.

With the increased emphasis on past performance in the source selection process, the Contracting Officer requests that clients of companies who submit proposals in response to this RFP be identified, and that they be requested to complete the attached questionnaire and return it to CMS.

We have identified you as one of our references and respectfully request that you complete the attached questionnaire and FAX or e-mail to CMS Attn: Edward Rutherford (FAX: 410-786-9643), [edward.rutherford@cms.hhs.gov](mailto:edward.rutherford@cms.hhs.gov)  
CMS mailing address is as follows:

Centers for Medicare and Medicaid Services  
Office of Acquisition and Grants Management  
Attn: Mr. Edward Rutherford  
Contracting Officer  
7500 Security Blvd., C2-21-15  
Baltimore, MD 21244-1850

Questionnaires are due to Mr. Rutherford **December 19, 2006 (with your written proposals)**, however, we would appreciate an earlier response if at all possible. Please

We sincerely appreciate your cooperation in this matter.

Sincerely,

## INSTRUCTIONS FOR QUESTIONNAIRE RESPONSE

The information from this questionnaire will be utilized in accordance with the 1994 Federal Acquisition Streamlining Act, Section 1091 to evaluate the past performance of offerors.

The questionnaire is arranged by general performance areas, i.e, quality of service, cost control, management performance, etc. Each area consists of a few basic questions relating to that aspect of performance. We ask that you rate the contractor on a scale of 0 through ++/5 by circling the appropriate number with 0 being unsatisfactory, 2 fair, and 5 exceptional. The following table describes the rating scale in more detail

0	Performance was extraordinarily poor and required a very high degree of management intervention
1	Below average behavior with a significant number of problems in meeting requirements
2	Average behavior in which all requirements were met satisfactorily with few problems
3	Above average behavior with only very minor and insignificant problems
4	Performance frequently exceeded expectations
++/5	Performance was exceptional and consistently exceeded expectations

We request that you justify each of your ratings with a comment. Please be as specific in your comment as possible, especially of situations that warranted very high or very low ratings. Use extra pages as necessary.

Finally, please complete the remainder of the questionnaire by circling the appropriate answer. In addition, please sign your name and identify your position during your association with the referenced contract. Once completed, please FAX or e-mail your response to Mr. Edward Rutherford, Contract Officer, 410-786-9643, [edward.rutherford@cms.hhs.gov](mailto:edward.rutherford@cms.hhs.gov)

Category 0 or 1 responses will be referred to the contractor to permit rebuttal. Neither your name nor position within your organization will be divulged either during or after this survey has been completed.

Solicitation No. RFP-CMS-2006-8A-0003

<p style="text-align: center;"><b>Requesting Company</b></p> <p>Contractor: _____</p> <p>Address: _____</p> <p>_____</p>	<p style="text-align: center;"><b>Responding Company</b></p> <p>Company: _____</p> <p>Contact Person: _____</p> <p>Telephone No.: _____</p>
--	---

Q1. What type of Product(s)/services was provided under your contract?		
Q2. What type of contract?		
Q3. Competitive or non-competitive?		
Q4. Total value of contract?		
Q5. Period of Performance?		
<b>Ratings: Summarize contractor's performance and circle in the column on the right the number which corresponds to the performance rating for each rating category. See Rating Guidelines</b> <b>0-Unsatisfactory 1-Poor 2-Fair 3-Good 4-Excellent</b> <b>5++Demonstrated Exceptional Performance</b>		
Q6. How was the contractor's quality of products/services? (compliance with contract requirements - accuracy of reports submitted - technical excellent/appropriateness of personnel)	Comments:	Rating: 0 1 2 3 4 ++5
Q7. How well did the contractor control costs? Within budget (over/under target costs) - Contractor provided current, accurate and complete billings - relationships of negotiated costs to actuals - cost efficiencies)	Comments:	Rating: 0 1 2 3 4 ++5
Q8. How well did the contractor comply with timeliness? (did contractor meet interim milestones - reliable - responsive to technical direction - met all delivery schedules on time)	Comments:	Rating: 0 1 2 3 4 ++5
Q9. How well did the contractor work with project/contracting officers? (prompt notification of problems - reasonable, cooperative, flexible - proactive - responsive to contract requirements - recommended solutions)	Comments:	Rating: 0 1 2 3 4 ++5
Q10. How would you describe the contractor's commitment to customer satisfaction? (how well did the contractor interface with the end user of the product/service)	Comments:	Rating: 0 1 2 3 4 ++5

Q11. How well do you assess the contractor's key personnel? (how long did key personnel stay on contract - did they effectively manage contract - were they responsive to technical direction)	Comments:	Rating: 0 1 2 3 4 ++5
Q12. If there was a cost overrun (delivery delays) in your opinion, how much of the overrun/delay was attributable to contractor management	a. All b. Most c. Half d. Little e. None f. Not applicable	
Q13. Based on your experience with this contractor, do you think it can be relied upon to delivery quality products/services by a specific delivery date?	a. Yes b. No	
Q14. How cooperative was the contractor when technical problems were encountered during the performance of the contract?	a. Highly Cooperative b. Moderately cooperative c. Slightly cooperative d. Slightly uncooperative e. Moderately uncooperative f. Highly uncooperative g. No opinion	
Q15. Do you believe the contractor can be relied upon to control the cost of performance?	a. Yes b. Uncertain c. No	
Q16. How frequently did you have to direct the contractor to re-perform the services because it had been performed unsatisfactorily the first time?	a. None b. Occasionally c. Often d. Always or almost always	
Q17. Was the contractor's performance generally satisfactory?	a. Yes b. No	
Q18. Would you hire this contractor again?	a. Yes b. No	
Q19. Would you recommend this contractor others?	a. Yes b. No	
Q20. Any other comments regarding the contractor's performance?	Comments:	

PRINT NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_



## **Centers for Medicare & Medicaid Services**

7500 Security Boulevard  
Central Building  
Baltimore, MD 21244-1850

Take 695, The Baltimore Beltway, to Exit 17, Security Boulevard, towards Rolling Road. Proceed on Security Boulevard (pass Security Square Mall and cross over Rolling Road). Proceed on Security Boulevard (which becomes Security Boulevard Extended) and it will dead end at 7500 Security Boulevard. Proceed to Guard Shack. Inform the Guard that you are a contractor and are delivering a proposal. The Guard will direct you to the Visitor Parking. You must enter in the Central Building.

NOTE: Proposals to be timely, must be delivered to the exact room, on or before the exact time specified in the Request for Proposal.

**PART IV – REPRESENTATIONS AND INSTRUCTIONS**

**SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER  
STATEMENTS OF OFFERORS OR QUOTERS**

**K.1 TO BE COMPLETED BY THE OFFEROR: [THE REPRESENTATIONS AND  
CERTIFICATIONS MUST BE EXECUTED BY AN INDIVIDUAL  
AUTHORIZED TO BIND THE OFFEROR]**

The Offeror must complete the Representations and Certifications as part of its proposal using the on-line electronic representations and certifications.

ORCA is an on-line system that is located on the Internet. The ORCA site can be found by going to <http://www.bpn.gov> and clicking on “Online Reps and Certs Application” on the left side of the screen.

Signature below indicates that all the information in this section (including on the website) is complete and up to date.

\_\_\_\_\_  
(Name of Offeror)

\_\_\_\_\_  
(RFP No.)

\_\_\_\_\_  
(Signature of Authorized Individual)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Typed Name of Authorized Individual)

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

**K.2 FAR 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY  
REFERENCE (FEB 1998)**

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The Offeror is cautioned that the listed provisions may include blocks that must be completed by the Offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the Offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es): [www.arnet.gov/far/](http://www.arnet.gov/far/)

- 52.203-2 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)
- 52.203-11 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APR 1991)
- 52.204-5 WOMEN-OWNED BUSINESS (MAY 1999)
- 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)
- 52.223-4 RECOVERED MATERIAL CERTIFICATION (OCT 1997)

**K.3 52.204-3 TAXPAYER IDENTIFICATION (OCT 1998)**

a. Definitions.

“Common parent,” as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

“Taxpayer Identification Number (TIN),” as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

- b. All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.
- c. The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c) (3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

d. Taxpayer Identification Number (TIN).

☐ TIN: \_\_\_\_\_.

☐ TIN has been applied for.

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

e. Type of organization.

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

☐ Government entity (Federal, State, or local);

☐ Foreign government;

☐ International organization per 26 CFR 1.6049-4;

☐ Other \_\_\_\_\_.

f. Common parent.

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

☐ Name and TIN of common parent:

Name \_\_\_\_\_

TIN \_\_\_\_\_

**K.4 FAR 52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2005)**

(a)

(1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (b) of this provision applies.

(2) If the clause at 52.204-7 is not included in this solicitation, and the Offeror is currently registered in CCR, and has completed the ORCA electronically, the Offeror may choose to use paragraph (b) instead of completing the corresponding individual representations and certifications in the solicitation. The Offeror shall indicate which option applies by checking one of the following boxes:

☐ (i) Paragraph (b) applies.

☐ (ii) Paragraph (b) does not apply and the Offeror has completed the individual representations and certifications in the solicitation.

(b) The Offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the Offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); **except for the changes identified below [Offeror to insert changes, identifying change by clause number, title, date]**. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause #	Title	Date	Change
_____	_____	_____	_____

**Any changes provided by the Offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.**

**K.5 52.209-5 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS. (DEC 2001)**

(A)(1) THE OFFEROR CERTIFIES, TO THE BEST OF ITS KNOWLEDGE AND BELIEF, THAT -

(i) The Offeror and/or any of its Principals -

(A) Are \* are not \* presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have [\*] have not [\*], within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are [\*] are not [\*] presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a) (1) (i) (B) of this provision.

(ii) The Offeror has [ ] has not [ ], within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror non-responsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

**K.6 52.215-6 PLACE OF PERFORMANCE (OCT 1997)**

(a) The offeror or respondent, in the performance of any contract resulting from this solicitation, [ ] intends, [ ] does not intend [check applicable block] to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.

(b) If the offeror or respondent checks “intends” in paragraph (a) of this provision, it shall insert in the following spaces the required information:

Place of Performance (Street Address, City, State, County, Zip Code)	Name and Address of Owner and Operator of the Plant or Facility if Other than Offeror or Respondent
--	--


**K.7 FAR 52.219-1 SMALL BUSINESS PROGRAM REPRESENTATIONS (MAR 2001)**

(a)  
(1) The North American Industry Classification System (NAICS) code for this acquisition is **518210**.

(2) The small business size standard is **NOT TO EXCEED \$21 MILLION**

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) *Representations.*

(1) The Offeror represents as part of its offer that it \_\_\_\_ is, \_\_\_\_ is not a small business concern.

(2) [Complete only if the Offeror represented itself as a small business concern in paragraph (b)(1) of this provision.] The Offeror represents, for general statistical

purposes, that it \_\_\_\_ is, \_\_\_\_ is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

- (3) *[Complete only if the Offeror represented itself as a small business concern in paragraph (b)(1) of this provision.]* The Offeror represents as part of its offer that it \_\_\_\_ is, \_\_\_\_ is not a women-owned small business concern.
- (4) *[Complete only if the Offeror represented itself as a small business concern in paragraph (b)(1) of this provision.]* The Offeror represents as part of its offer that it \_\_\_\_ is, \_\_\_\_ is not a veteran-owned small business concern.
- (5) *[Complete only if the Offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.]* The Offeror represents as part of its offer that it \_\_\_\_ is, \_\_\_\_ is not a service-disabled veteran-owned small business concern.

(c) *Definitions.* As used in this provision--

**"Service-disabled veteran-owned small business concern"**—

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

**"Small business concern"** means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (a) of this provision.

**"Veteran-owned small business concern"** means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.



**"Women-owned small business concern"** means a small business concern—

- (1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

(d) *Notice.*

- (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.
- (2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall—
  - (i) Be punished by imposition of fine, imprisonment, or both;
  - (ii) Be subject to administrative remedies, including suspension and debarment; and
  - (iii) Be ineligible for participation in programs conducted under the authority of the Act.

**K.8 52.219-19 SMALL BUSINESS CONCERN REPRESENTATION FOR THE  
SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.  
(OCT 2000)**

- (a) Definition. "Emerging small business" as used in this solicitation, means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the North American Industry Classification System (NAICS) code assigned to a contracting opportunity.
- (b) [Complete only if the Offeror has represented itself under the provision at 52.219-1 as a small business concern under the size standards of this solicitation.] The Offeror [ ] is, [ ] is not an emerging small business.
- (c) [Complete only if the Offeror is a small business or an emerging small business, indicating its size range.] Offeror's number of employees for the past 12 months [check

this column if size standard stated in solicitation is expressed in terms of number of employees] or Offeror's average annual gross revenue for the last 3 fiscal years [check this column if size standard stated in solicitation is expressed in terms of annual receipts]. [Check one of the following.]

No. of Employees Avg. Annual Gross Revenues

- ☐ 50 or fewer ☐ \$1 million or less
- ☐ 51 - 100 ☐ \$1,000,001 - \$2 million
- ☐ 101 - 250 ☐ \$2,000,001 - \$3.5 million
- ☐ 251 - 500 ☐ \$3,500,001 - \$5 million
- ☐ 501 - 750 ☐ \$5,000,001 - \$10 million
- ☐ 751 - 1,000 ☐ \$10,000,001 - \$17 million
- ☐ Over 1,000 ☐ Over \$17 million

**K.9 52.219-21 SMALL BUSINESS SIZE REPRESENTATION FOR TARGETED INDUSTRY CATEGORIES UNDER THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM. (MAY 1999)**

[Complete only if the Offeror has represented itself under the provision at 52.219-1 as a small business concern under the size standards of this solicitation.]

Offeror's number of employees for the past 12 months [check this column if size standard stated in solicitation is expressed in terms of number of employees] or Offeror's average annual gross revenue for the last 3 fiscal years [check this column if size standard stated in solicitation is expressed in terms of annual receipts]. [Check one of the following.]

No. of Employees Avg. Annual Gross Revenues

- 50 or fewer ☐ \$1 million or less
- ☐ 51 - 100 ☐ \$1,000,001 - \$2 million
- ☐ 101 - 250 ☐ \$2,000,001 - \$3.5 million
- ☐ 251 - 500 ☐ \$3,500,001 - \$5 million
- ☐ 501 - 750 ☐ \$5,000,001 - \$10 million
- ☐ 751 - 1,000 ☐ \$10,000,001 - \$17 million
- ☐ Over 1,000 ☐ Over \$17 million

**K.10 52.223-13 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING. (AUG 2003)**

a) Executive Order 13148, of April 21, 2000, Greening the Government through Leadership in Environmental Management, requires submission of this certification as a prerequisite for contract award.

(b) By signing this offer, the offeror certifies that --

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: *[Check each block that is applicable.]*

\* (i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

\* (ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

\* (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

\* (iv) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

(A) Major group code 10 (except 1011, 1081, and 1094).

(B) Major group code 12 (except 1241).

(C) Major group codes 20 through 39.

(D) Industry code 4911, 4931, 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(E) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, *et seq.*)), or 5169, 5171, 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

\* (v) The facility is not located within any State of the United States or its outlying areas.

**SECTION K - PART II: Financial Information**

**K.11 REPRESENTATIONS AND INSTRUCTIONS FINANCIAL**

1. Contractor: \_\_\_\_\_  
\_\_\_\_\_

Address:\* \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone No. \_\_\_\_\_

Individual(s) to contact regarding this proposal:

\_\_\_\_\_  
\_\_\_\_\_

Dun & Bradstreet, Data Universal Numbering System (DUNS) No.

\_\_\_\_\_  
(See FAR 52.204-6 -- Data Universal Numbering System (DUNS) Number)

\*If financial records are maintained at some other location, show the address of the place where the records are kept.

2. Cognizant Government Audit Agency:

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Auditor: \_\_\_\_\_

Telephone No. \_\_\_\_\_

3. Sales:

a. Work Distribution for the Last Complete Fiscal Accounting Period

Government cost reimbursement type prime contracts and subcontracts:

\$ \_\_\_\_\_

Government fixed price prime contracts and subcontracts: \$\_\_\_\_\_

Commercial Sales: \$\_\_\_\_\_

Total Sales: \$\_\_\_\_\_

- b. Total Sales for First and Second Fiscal Years Immediately Proceeding Last Completed Fiscal Year

Total sales for first preceding fiscal year: \$\_\_\_\_\_

Total sales for second preceding fiscal year: \$\_\_\_\_\_

4. Is company a separate entity or division? \_\_\_\_\_ If a division or subsidiary corporation, name parent company:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Date company organized:\_\_\_\_\_

6. Manpower:

Total employees:\_\_\_\_\_

Direct: \_\_\_\_\_

Indirect:\_\_\_\_\_

Standard Work Week (Hours):\_\_\_\_\_

7. Commercial Products:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Attach a current organizational chart of the company.

9. Description of contractor's system of estimating and accumulating costs under Government contracts. (Check appropriate blocks).

	Estimated/ Actual Cost	Standard Cost
	=====	=====
Estimating System	_____	_____
Job Order	_____	_____
Process	_____	_____
Accumulating System	_____	_____
Job Order	_____	_____
Process	_____	_____

Has your cost estimating system been approved by any Government agency?

Yes\_\_\_\_\_No\_\_\_\_\_

If yes, give name and location of agency:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10. What is your fiscal year period? (Give month-to-month dates)

\_\_\_\_\_

What were the indirect cost rates for your last completed fiscal year?

Basis of Fiscal Year\_\_\_\_\_ Indirect Cost Rates Allocation

Fringe Benefits \_\_\_\_\_

Overhead \_\_\_\_\_

G & A Expense \_\_\_\_\_

Other \_\_\_\_\_

11. Have the proposed indirect cost rate(s) been evaluated and accepted by any Government agency?

If yes, give name and location of the Government agency:

\_\_\_\_\_

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Date of last pre-award audit review by a Government agency:

12. Cost estimating is performed by:

- ☐ accounting department
- ☐ contract department
- ☐ other (describe)\_\_\_\_\_

13. Has system of control of Government property been approved by a Government agency?

If yes, give name and location of agency:

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\*If the answer is no, data supporting the proposed rates must accompany the cost or price proposal. A breakdown of the items comprising overhead and G & A must be furnished.

14. Purchasing Procedures:

Are purchasing procedures written? Yes\_\_\_\_No\_\_\_\_

Has your purchasing system been approved by a Government agency?

Yes\_\_\_\_No\_\_\_\_

If yes, give name and location of agency:

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15. Does your firm have an established written incentive compensation or bonus plan?

Yes\_\_\_\_No\_\_\_\_

## **SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS OR QUOTERS**

**SECTION L:** This procurement is for a single award of an Firm-Fixed-Price (FFP) contract. This award will be an 8(a) set-aside.

This solicitation includes instructions for submission of proposals.

### **L.1. PROCUREMENT TIMELINE:**

Request for Proposal (RFP) Released:	Nov 21, 2005
Questions Due:	Dec 5, 2005 (NLT 12:00 PM)
Answers Issued:	Dec 12, 2005
Notice of Intent to Submit Proposals:	Dec 14, 2005 (NLT 3:00 PM)
Technical & Business Proposals Due:	Dec 21, 2005 (NLT 2:00 PM)
Award of Contract:	March 1, 2006 (estimated)

### **L.2 FAR 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)**

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The Offeror is cautioned that the listed provision may include blocks that must be completed by the Offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the Offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this address: [www.arnet.gov/far/fac.html](http://www.arnet.gov/far/fac.html).

#### Federal Acquisition Regulation (FAR) Clauses:

52.204-6	DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (JUN 1999)
52.207-2	NOTICE OF COST COMPARISON (NEGOTIATED) (FEB 1993)
52.222-24	PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE REVIEW (FEB 1999)
52.222-46	EVALUATION OF COMPENSATION FOR PROFESSIONAL EMPLOYEES (FEB 1993)
52.237-10	IDENTIFICATION OF UNCOMPENSATED OVERTIME (OCT 1997)



**L.3 FAR 52.215-1 INSTRUCTIONS TO OFFERORS - COMPETITIVE ACQUISITION. (JAN 2004)**

(a) Definitions. As used in this provision—

“Discussions” are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer’s discretion, result in the offeror being allowed to revise its proposal.

“In writing,” “writing,” or “written” means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

“Proposal modification” is a change made to a proposal before the solicitation’s closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

“Proposal revision” is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

“Time,” if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) Amendments to solicitations. If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) Submission, modification, revision, and withdrawal of proposals.

(1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals and modifications to proposals shall be submitted in paper media in sealed envelopes or packages (i) addressed to the office specified in the solicitation, and (ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror. Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

(2) The first page of the proposal must show—

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);

(iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;

(iv) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and

(v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(3) Submission, modification, revision, and withdrawal of proposals.

(i) Offerors are responsible for submitting proposals, and any modifications or revisions, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.

(ii)(A) Any proposal, modification, or revision received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and—

(1) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(2) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(3) It is the only proposal received.

(B) However, a late modification of an otherwise successful proposal that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(iii) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(v) Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision at 52.215-5, Facsimile Proposals. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

(4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225-17, Evaluation of Foreign Currency Offers, is included in the solicitation.

(6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) Offer expiration date. Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the offeror).

(e) Restriction on disclosure and use of data. Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall—

(1) Mark the title page with the following legend:

This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of—or

in connection with—the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [insert numbers or other identification of sheets]; and

(2) Mark each sheet of data it wishes to restrict with the following legend:

Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(f) Contract award.

(1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and sub-factors in the solicitation.

(2) The Government may reject any or all proposals if such action is in the Government's interest.

(3) The Government may waive informalities and minor irregularities in proposals received.

(4) The Government intends to evaluate proposals and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

(5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.

(6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.

(7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.

(8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or sub-line items. Unbalanced pricing exists

when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

(9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.

(10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.

(11) If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

(i) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

(ii) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.

(iii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.

(iv) A summary of the rationale for award.

(v) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(vi) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

#### **L.4 FAR 52.216-1 TYPE OF CONTRACT. (APR 1984)**

The Government intends to award a Firm-Fixed-Price contract (See FAR 16.2, Fixed-Price Contract) resulting from this solicitation. However, the Contracting Officer reserves the right to choose another contract type if it is in the best interests of the Government to do so.

#### **L.5 FEDERAL ACQUISITION REGULATION (FAR) CLAUSES - CONTRACT AWARD**

Any resultant contract shall include the FAR clauses applicable to the selected Offeror's organization and type of contract award. Copies of the FAR clauses may be obtained by visiting Internet Web Site [www.arnet.gov/far/](http://www.arnet.gov/far/) or by contacting the Contracting Officer.

Any additional clauses required by public law, executive order, or acquisition regulations, in effect at the time of execution of the proposed contract, will be included at time of award.

**L.6 FAR 52.233-2 SERVICE OF PROTEST. (AUG 1996)**

- (a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

Centers for Medicare and Medicaid Services  
Office of Acquisition and Grants Management  
Division of Medicare Support Contracts  
ATTN: Edward M. Rutherford  
Contracting Officer  
7500 Security Blvd., Mail Stop C2-21-15  
Baltimore, MD 21244-1850

- (b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

**L.7 FAR 52.252-3 ALTERATIONS IN SOLICITATION. (APR 1984)**

Portions of this solicitation are altered as follows:

[X ] None at this time.

**L.8 GENERAL INSTRUCTIONS**

The following establishes the acceptable minimum requirements for the format and content of proposals:

- A. General:** The Offeror's proposal shall be submitted in ONE (1) part:

3 Ring Locking Binder – The binder shall include all of the Business Proposal requirements and written Technical Proposal requirements.

**B. When/Where/How Many Proposals to Submit:**

One (1) original copy of the combined proposal, plus one (1) diskette copy of the business proposal spreadsheets, shall be signed by an official authorized to bind your organization, plus five (5) copies shall be received **no later than 2:00pm local prevailing time on December 21, 2005.**

Proposals shall be delivered to the following address:

Centers for Medicare & Medicaid Services  
Office of Acquisition and Grants Management  
Division of Medicare Support Contracts  
ATTN: Edward M. Rutherford, Contracting Officer  
7500 Security Boulevard, M/S C2-21-15  
Baltimore, Maryland 21244-1850

Phone: **410-786-6648**

E-mail: [Edward.Rutherford@CMS.HHS.Gov](mailto:Edward.Rutherford@CMS.HHS.Gov)

**NOTE:** The Centers for Medicare & Medicaid Services (CMS) is located in a secure building. Therefore, when hand-delivering proposals in response to CMS solicitations, contractors should allow for ample time to obtain parking and building passes from the Security Guards. Please be advised that the proposal is not considered to be delivered until it is in the hands of the Contract Specialist. Please also be advised that CMS Security Guards will not accept proposals for CMS staff.

In addition, contractors are advised that the CMS mailroom accepts mail from the U.S. Postal Service **ONLY**. When utilizing overnight mail carriers you are cautioned that you must allow ample time for the proposal to be delivered to the Contract Specialist by the overnight carrier by the times specified in this RFP since they are not accepted in the CMS mailroom.

**C. Late Proposals:** Late proposals will be handled in accordance with FAR 52.215-1, Instructions to Offerors – Competitive Acquisition. For this provision, a proposal includes all proposal submissions from the prime contractor and its subcontractors (i.e., hard copies and electronic copies/submissions) to all recipients identified in this solicitation. If any portion of the proposal (Prime Contractor AND Subcontractor) is not received by the above specified date and time, you will be contacted and advised that the proposal is not accepted for consideration.

**D. Intent to Submit a Proposal:** The Offeror shall indicate its intent to submit a proposal on the Medicare Learning Network (MNL) contract no later than **3:00 PM local prevailing time on December 14, 2005**. This notice shall be submitted via e-mail to **Edward M. Rutherford, Contracting Officer, at Edward.Rutherford@CMS.HHS.Gov**.

**NOTE:** Please be advised that an intent to submit a proposal is not binding on the Offeror and is for planning/scheduling purposes only. In addition, an Offeror that submits a negative intent to bid response is not precluded from actually submitting a proposal. However, if you submit an intent to bid and then later decide that you will not be submitting a proposal, please email Mr. Rutherford to let him know so that he can make scheduling adjustments. This will allow CMS to maximize the best use of

the limited time available to make award of the MNL contract.

- E. Solicitation Questions:** All questions concerning this solicitation shall be submitted in writing and shall be received by the Contract Specialist **no later than December 5, 2005 at 12:00 PM local prevailing time.** All questions for which answers can be provided will be conveyed to prospective Offerors by amendment to this solicitation, with copies of both the questions and answers being supplied without reference as to the originating source. **Questions submitted by telephone or in person will not be honored.**

The Contracting Officer may hold a subsequent question and answer session depending on the initial questions and answers received. However, Offerors are cautioned that the initial question and answer session identified above is the only official Q&A session envisioned at this time. Any subsequent Q&A sessions will be identified in an amendment to the solicitation.

Offerors shall submit questions via electronic mail (E-mail) in the form of an electronic file attachment in Microsoft Word 2000 to **Edward.Rutherford@CMS.HHS.GOV.**

Questions shall be submitted in the following format **(Please only use standard tabs and indent software features. Do not use any elaborate features such as indexing, tables, columns, etc.):**

**Submission of Questions shall include at a minimum, company name, address, point of contact and phone number and;**

**For EACH question submitted, the Offeror shall provide:**

1. Statement of Work (SOW) section number (including subparagraph designations) or solicitation section being referenced;
2. Title of the SOW for solicitation section number; and
3. Complete description of the question

All questions for which answers can be provided will be conveyed in the form of a solicitation amendment to all contractors on the FedBizOpps.Gov website sometime on or about December 8, 2005.

- F. Costs for Proposal Submission:** This solicitation does not commit the Government to pay any cost for the preparation and submission of a proposal. In addition, the Contracting Officer is the only individual who can legally commit the Government to the expenditure of public funds in connection with the proposed acquisition.



**G. Award Without Discussion:** Offerors are advised that award may be made without discussion (See also FAR 52.215-1, Instructions to Offerors – Competitive Acquisition. Accordingly, proposals should be submitted initially on the most favorable terms from a price/cost and technical standpoint.

**H. Proposals Included in the Official Contract File:** Offerors are advised that its proposal may become part of the official contract file.

**I. Central Contractor Registration (CCR)**

1. Must be in CCR.
2. Must be in a 8 (a) program at the date of award.
3. Must be listed as a small business for the NACIS code, 518210, in CCR.

**L.9 PROPOSAL ORGANIZATION**

**A. General**

The Offeror's proposal submission shall consist of a written Business Proposal and written Limited Technical Proposal (together in one binder). Offeror's proposals shall be organized as follows (See also specific sections below on Business Proposal and Technical Proposal specific requirements):

1. **Business Proposal**: The Business Proposal shall consist of the following elements, at a minimum:
  - a. Table of Contents (Each section shall be tabbed accordingly)
  - b. Contract Forms, and Representations and Certifications
    1. SF-33, Solicitation, Offer and Award
    2. RFP Section B
    3. RFP Section G
    4. RFP Section K, Representations, Certifications and Other Statements of Offerors
  - c. Subcontractor proposal(s) if applicable
  - d. Administrative Data:
    1. Statement on the Offeror's financial capability
    2. Equipment to be purchased (if applicable)
    3. Government Property (if applicable)
2. **Technical Proposal** - The Technical Proposal shall consist of the following:
  - a. Work Breakdown Structure
  - b. Corporate Experience
  - c. Past Performance
  - c. Resume(s)
  - d. Technical Understanding

- e. Technical/Management Approach
- f. Subcontracting/Teaming

## **B. Proposal Presentation**

### **1. Binding and Labeling –**

Binding: Offeror's shall submit proposals in **locking** 3-ring binders only. Dimensions shall not exceed height – 11.5", width – 10.25". Depth – no limit.

Labeling: A binder cover sheet shall be affixed to the binder, which clearly identifies each copy number (i.e., copy 2 of 4), the solicitation identification, and Offeror's name and address. If the material for a binder requires more than one book, then the additional volume shall be labeled with the name and number of the volume and book number, (i.e., Proposal, Binder 1 of 2). The original of Binder shall be marked **ORIGINAL** and all other copies shall be marked **COPY**.

- 2. **Indexing** - TAB indexing shall be used to identify all required proposal sections identified herein. Each binder shall be organized such that an extensive search of required documents is not necessary in order to review the proposal.

## **C. Paper Size, Type, Spacing and Page Numbering**

Paper size shall be 8.5 by 11 inches. Fold-outs will count as two pages. The pages shall be numbered and printed on both sides if possible. Type size shall not be less than a 12-point font with a space and a half between lines. Line height shall be .207. The number of pages for the proposal (Business and Technical) is limited to **100 pages**.

## **L.10 BUSINESS PROPOSAL INSTRUCTIONS**

The business proposal shall be comprised of the following elements:

### **A. Table of Contents**

### **B. Contract Form and Representation and Certifications**

The SF-33 and the Representations and Certifications contained in Section K must be executed by an official authorized to bind the Offeror. In addition, Sections B, G and K of the RFP shall be completed where applicable.

- C. Breakdown of Proposed Costs**: The offeror shall submit, at a minimum, a cost or price proposal supported by cost and pricing data adequate to establish the reasonableness and realism of the proposed cost or price. **Business Proposals shall include, at a minimum, all costs by task for:**

1. **Labor:** Include all direct labor categories to be utilized on the contract. For each labor category please show the number of labor hours multiplied by the hourly labor rate which equals the resultant total dollar amount.
2. **Subcontracts (as appropriate):** The Offeror's shall include subcontract information to be evaluated when proposing subcontractors (i.e. name, labor rates, etc.)
  - a. Extent to which adequate price competition was obtained, or justification in its absence.
  - b. Statement as to whether the proposed subcontractor is on the list of Parties Excluded from Federal Procurement and Non-procurement Programs.

NOTE: All proposed subcontractors shall submit a complete cost proposal in the same format as the Offeror's cost proposal.

3. **Other Direct Costs (ODC's):** This category includes travel, materials, equipment, etc. The Offeror shall consolidate ODC's into one line item. However, a separate schedule shall be provided to breakdown ODC's. The schedule shall provide a detailed itemization of each ODC proposed, and shall also provide rationale for the need of each item.
4. **G&A/Indirect Costs (as appropriate)**
5. **Fee/Profit (as appropriate)**

#### **D. Other Administrative data**

1. **General:** The Offeror's proposal must stipulate that it is predicated upon all the terms and conditions of this RFP. In addition, it must contain a statement to the effect that it is firm for a period of at least **180 days** from the date specified for receipt of offers by the Government.
2. **Statement on the Offeror's Financial Capability:** The Offeror's proposal must indicate whether it has the necessary financial capacity, working capital, and other resources to perform the contract without assistance from any outside source (If not, indicate the amount required and the anticipated source).

### **L.11 TECHNICAL PROPOSAL INSTRUCTIONS**

A written technical proposal is required. The written technical proposal combined with the business proposal **shall not exceed 100 pages**. The proposal should be an example of the Offeror's ability to communicate clearly and concisely the requirements set forth in

the SOW. Detailed curriculum vitae and project summaries may be included as separate attachments. The technical proposal shall be bound separately from the business proposal. The technical proposal shall include the following and in the order listed.

- a. Work Breakdown Structure
- b. Corporate Experience
- c. Past Performance
- c. Resume(s)
- d. Technical Understanding
- e. Technical/Management Approach
- f. Subcontracting/Teaming

**A. WORK BREAKDOWN STRUCTURE** for each of the sections identified in M.4

**B. PAST PERFORMANCE**

The Offeror shall demonstrate satisfactory performance (not corporate experience) on current and completed contracts. For the purposes of this section, contracts referenced can be of any nature and do not necessarily need to be related to the SOW. Offerors shall submit the following information as part of its written technical proposal for both the Offeror and proposed subcontractors.

1. A list of all contracts and/or subcontracts (completed and/or currently in progress) for the prime contractor and any subcontractors for the last two (2) years, not to exceed five (5) contracts. Contracts listed may include those entered into with the Federal Government, agencies of state and local governments and commercial customers. Include the following information for each contract and subcontract:
  - a. Name of Contracting Activity
  - b. Contract Number & Task Order Number, if applicable
  - c. Contract Type
  - d. Total Contract Value
  - e. **Brief** Contract Description – No more than ¼ page each.
  - f. Contracting Officer and Telephone
  - g. Program Manager and Telephone
  - h. Administrative Contracting Officer and Telephone  
(If Different from f. Above)
  - i. Information on Problems Encountered and Offeror's Corrective Action (if applicable) – No more than ¼ page each.
  - j. A copy of each reference's Performance Evaluation identified above - If the Offeror has performance evaluations stored in the NIH Contractor Performance System (CPS), the requirement for submission of the hard copy performance evaluations may be eliminated since CMS has access to information contained in the NIH CPS.

2. A joint venture having no past performance history itself may provide references based on the constituent companies. In addition, Offerors having no organizational past performance record may provide references for proposed personnel.
3. The Offeror may describe any quality awards or certifications that indicate the Offeror possesses a high-quality process for developing and producing the services required. Describe when the award or certification was bestowed. If the award or certification is over three years old, present evidence that the qualifications still apply.
4. Performance information will be used for both the responsibility determination and as an evaluation factor against which Offerors' relative rankings will be compared to assure best value to the Government. The attached questionnaire (**Attachment J.4**) must be submitted directly by the references listed in your proposal. **Attachment J.4** includes a sample cover letter, instructions for questionnaire response and the questionnaire. References shall be asked to submit their responses directly to CMS no later than one (1) week after the proposal due date. CMS will follow up with references which have not responded by the date specified. References other than those identified by the Offeror may be contacted by the Government with the information received used in the evaluation of the Offeror's past performance.

### **C. PERSONNEL**

The technical proposal shall include a list of names and proposed duties of the personnel assigned to the project. The Offeror shall provide, at a minimum, resumes for the Project Manager, System Maintainer and Computer Programmer. Resumes shall contain information on education, general background, industry background, and specific professional accomplishments directly applicable to the Statement of Work.

### **L.12 PRODUCT FULFILLMENT ASSUMPTIONS**

1. CMS expects to ship 200,000 products. CMS would anticipate a 10% increase in subsequent years. Offerors need to understand that orders are not always for one item but can be for multiple quantities, these will be shipped in bulk. Below is an estimate of what CMS anticipate to be shipped by product:

Video tapes-10,000  
CD Roms-75,000  
Manuals -25,000  
Brochures/pamphlets -50,000  
Posters- 25,000  
Paper fliers - 15,000

2. All products are shipped the least expensive way. Bulk shipments are always shipped ground.
3. When a new product is developed CMS automatically has 5,000 copies shipped directly to the fulfillment contractor and a quantity shipped to the CMS warehouse. The contractor will be required to store a maximum of 5,000 of each of the products in their warehouse to fill orders with. They will have to provide shelf space for each item for fulfillment purposes. They can check the current website at [www.cms.hhs.gov/medlearn](http://www.cms.hhs.gov/medlearn) to see the types of products that are currently available for order.
4. All orders must be shipped within 7-10 working days.
5. The contractor must provide a secure environment for all CMS property.
6. The CMS Project Officer will be responsible processing product shipments to the contractor when products go below the minimum storage level.

## SECTION M - EVALUATION FACTORS FOR AWARD

### M.1. FAR 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this address:  
<http://www.arnet.gov/far>

### FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) SOLICITATION PROVISIONS

<u>CLAUSE NO.</u>	<u>CLAUSE TITLE</u>	<u>DATE</u>
52.217-5	Evaluation of Options	JUL 1990

### M.2. METHOD OF CONTRACT AWARD.

The Government intends to make a single award to those **responsible** offerors whose proposals comply with all the solicitation requirements, and are evaluated as technically acceptable with a fair and reasonable price evaluation determination.

The Government reserves the right to award on the basis of initial proposals without holding discussions. However, the Government reserves the right to conduct discussions if necessary.

### M.3 GENERAL PROCEDURES FOR AWARD OF CONTRACTS

- a. General: This procurement is for a single award of a firm-fixed-price contract. The award of the contract will be set-aside to qualified 8 (a) small businesses.
- b. Technical Evaluation: The Technical Evaluation Panel (TEP) will evaluate and score each technical proposal by applying the weighted technical criteria and sub-criteria set forth in Section M.3 below. The evaluation will produce numerical scores (points) for each Offeror based upon the information contained in the written technical proposal. Therefore, the written technical proposal shall provide all information necessary to properly evaluate the proposals in accordance with the evaluation criteria. In addition to determining a numerical score (points) for each Offeror, the TEP will 1) recommend whether or not a proposal is technically acceptable or technically unacceptable and 2) identify its strengths, weaknesses and deficiencies.

- c. Business Evaluation: The business proposal will be analyzed and evaluated by the TEP to determine the reasonableness and the realism of the proposed price. The purpose of this price realism analysis will be to determine if the Offeror's proposed price reflect the Offeror's understanding of the Government's requirements and if the proposed prices are consistent with the various elements of the Offeror's technical proposal. In addition, although not all inclusive, other areas of the Business Proposal, such as Offeror responsibility determinations, etc., will also be evaluated.
- d. Past Performance: The Offeror will be evaluated on the performance of work on contracts completed or currently in progress, within the last 2 years. In accordance with FAR 9.104-1, General standards, the Offeror must have a satisfactory performance record in order to be considered for award. See also FAR 9.104-3(b), Satisfactory Performance Record, and FAR 42.15, Contractor Performance Information.
- e. Clarification/Communications with Offerors Before Establishment of the Competitive Range: In accordance with FAR 15.306, Exchanges with Offerors After Receipt of Proposals, the Government may be required to conduct clarifications and/or communications with the Offeror prior to the establishment of the Competitive Range. Discussions, as defined in FAR 15.306(d) may be conducted after establishment of the Competitive Range.

An Offeror should not assume that the Contracting Officer will independently obtain information necessary to evaluate its proposal and should therefore supply all information required to evaluate its proposal. Failure to provide the information required in order to evaluate a proposal could result in rejection of the proposal as being technically unacceptable.

- f. Competitive Range: Based on the ratings of each proposal against all evaluation criteria and other requirements of the solicitation, the Contracting Officer shall establish a Competitive Range comprised of all of the most highly rated proposals unless the range is reduced for purposes of efficiency (see below). The Competitive Range will be determined based on the following:
  - Scoring of the business and technical proposal;
  - Evaluation of past performance information
  - Evaluation of other business proposal components; and
  - A preliminary responsibility determination (See FAR 9.1 Responsible Prospective Contractors). Note: At this point in the procurement cycle the responsibility determination is preliminary. The responsibility determination process will continue up to the time contracts are awarded.

Further, if the Contracting Officer determines that the number of proposals that would otherwise be in the Competitive Range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the Competitive Range to the greatest number that will permit an efficient competition among the most highly rated proposals. See also M.1.h. below.



Offerors will be notified by letter whether or not it has been included in the Competitive Range. Offerors not in the Competitive Range will be eliminated from further consideration for award. Offerors excluded or otherwise eliminated from the Competitive Range may request a debriefing in accordance with FAR 15.505, Pre-award Debriefing of Offerors.

- g. Discussions: After announcement of the Competitive Range and discussions in accordance with FAR 15.3, a request for final revised proposals will be issued to all Offerors still within the Competitive Range. If, after discussions have begun, an Offeror originally in the Competitive Range is no longer considered to be among the most highly rated Offerors being considered for award, that Offeror may be eliminated from the Competitive Range whether or not all material aspects of the proposal have been discussed, or whether or not the Offeror has been afforded an opportunity to submit a proposal revision.

After receipt and evaluation of a final revised proposal, an Offeror may be selected for award and may be involved in final negotiations. The content of such negotiations would not have any bearing on the selection process and would be in accordance with HHSAR 315-370, "Finalization of details with the selected source."

However, the Contracting Officer reserves the right to make award of a contract without regard to "discussions" after the final Competitive Range is determined. Therefore, it is in the best interest of the Offeror to submit the most advantageous proposal to the Government with the initial submission.

You are reminded that inclusion in the Competitive Range is not a guarantee for award of a contract. Offeror's eliminated from the Competitive Range will be notified in accordance with FAR 15.503, Notice to Unsuccessful Offerors.

- h. Source Selection: Source selection will be made in accordance with the guidelines of the Federal Acquisition Regulation (FAR) and The Department of Health and Human Services Acquisition Regulations (HHSAR) and this solicitation. Award of contract under this solicitation shall be made to a 8 (a) Small Business whose proposal is determined to provide the best value to the Government.
- i. Amendment or Cancellation of Solicitation: CMS reserves the right to amend or cancel this solicitation as necessary to meet CMS requirements.

#### **M.4 TECHNICAL EVALUATION CRITERIA**

The following evaluation criteria, with relative weights assigned to each criterion as indicated, will be applied to the technical evaluation of each proposal. The written materials provided (resumes, letters of commitment, Work Breakdown Structure (WBS)/Project Plan, the organizational chart will be reviewed and scored.

#### **Medicare Learning Network Technical Evaluation Criteria**

The total points that can be earned for the Medicare Learning Network SOW technical proposal are **2000**.

<u>CRITERIA</u>	<u>POINTS</u>
Personnel/Staffing Plan (Total)	400
<b>Staffing Plan</b>	<b>250</b>
<b>Personnel</b>	<b>150</b>
Technical Approach	400
Project Management Plan	400
Past Performance	300
<b>Past Performance</b>	<b>250</b>
<b>Corporate Experience</b>	<b>50</b>
LMS Database Security	300
Product warehousing	200
TOTAL POINTS	2000

- **Staffing Plan (250 Points Total):** At a minimum, the Offeror should be able to demonstrate its approach to the areas listed below listed in descending order of importance:

The offeror's ability to assemble a team that has the skills to meet the requirements outlined in the SOW.

- The degree to which the contractor's proposed labor mix is an accurate reflection of their technical approach and understanding of the SOW.
- The Offeror shall also identify any individuals as being proposed as a result of a subcontract or a teaming effort.

- **Personnel (150 Points Total):** At a minimum, the Offeror should be able to demonstrate its approach to the areas listed below listed in descending order of importance:

- The quality of "key " personnel proposed for the performance under this contract possess the academic or professional credentials required to successfully perform the tasks associated with this contract.
- The project leader shall possess a thorough understanding of all requirements of the statement of work.
- The Offeror shall demonstrate that the personnel have the qualifications that are consistent with the requirements of the statement of work.

- **Past Performance(250 Points):** At a minimum, the Offeror should be able to demonstrate its past performance as listed below listed in descending order of importance:

- To the degree the contractor demonstrates through past performance their ability to successfully perform all requirements as outline in the SOW.
  - The quality of the contractor’s past performance and the depth and breadth of offeror’s experience in similar, directly related work of similar scope and complexity of work described in the statement of work.
  - How successful has the contractor been in their past efforts.
  - How was the contractor’s quality of service.
  - Were there any timeliness issues
  - Any cost issues (i.e. overruns, etc)
  - Degree of contractor’s commitment to customer satisfaction
- **Corporate Experience (50 Points):** At a minimum, the Offeror should be able to demonstrate its corporate experience listed below:

The degree to which the company relates to the Medicare program especially in the area of Medicare provider education.
- **Technical Approach (400 Points):** At a minimum, the Offeror should be able to demonstrate its approach to the areas listed below listed in descending order of importance:
  - The degree to which the contractor’s proposed approach ensures that all the tasks are performed thoroughly, timely and meet or exceed the requirements outlined in the statement of work
  - Demonstrated knowledge of all the technical support requirements outlined in the SOW
  - Demonstrated knowledge of all the hosting requirements outlined in the SOW
  - Demonstrated knowledge of all aspects related to the LMS and Product Ordering System Maintenance.
- **Project Management Plan (400 Points):** At a minimum, the Offeror should be able to demonstrate its approach to the areas listed below listed in descending order of importance:
  - The degree to which the project management plan demonstrates an effective approach to managing the effort.
  - The quality of the management plan
  - Reasonableness of the proposed organization and management of the contract as a whole.
  - The degree to which the proposed resources will be used.
- **LMS Database Security (300 Points):** At a minimum, the Offeror should be able to demonstrate its approach to the areas listed below listed in descending order of importance:

- The degree to which the contractor's has proposed to secure the LMS Database system.
  - The contractor has a demonstrated security plan for the server.
  - The contractor has demonstrated they have a secure facility to warehouse the Medicare Learning Network products
- **Product Warehousing (200 Points):** At a minimum, the Offeror should be able to demonstrate its approach to the areas listed below listed in descending order of importance:
  - The contractor has a secure facility to warehouse MLN products
  - The contractor has shelving and mail equipment to handle the required number of product orders filled on an annual basis
  - The contractor's facility is set-up to accommodate the fulfillment tasks outlined in the SOW.